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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,613	07/06/2001	Masamichi Fujiwara	P/3241-18	6086

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OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

EXAMINER

LEE, JOHN D

ART UNIT PAPER NUMBER

2874

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/900,613

Applicant(s)

FUJIWARA ET AL.

Examiner

John D. Lee

Art Unit

2874

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.  
2a) This action is **FINAL**.                            2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-153 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_ is/are allowed.  
6) Claim(s) \_\_\_\_ is/are rejected.  
7) Claim(s) \_\_\_\_ is/are objected to.  
8) Claim(s) 1-153 are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.  
12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.  
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.  
15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.

- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_.

Receipt is acknowledged of papers submitted under 35 U.S.C. §§ 119(a)-(d), which papers have been placed of record in the file.

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claims 1-12 and 50-63, drawn to an optical spectrum flattener and flattening method based on optical modulation, classified in class 359, subclass 238.
- II. Claims 13-44 and 64-151, drawn to a multi-wavelength generating apparatus wherein incident light of a single central wavelength is converted to multiple-wavelength light having a plurality of central wavelengths, classified in class 359, subclass 326.
- III. Claims 45-49, 152, and 153, drawn to a multiplexing arrangement for multiplexing light of different wavelengths, classified in class 398, subclass 82.

The inventions are distinct, each from the other because:

Inventions I and II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as in a spectrum flattening application that does not require or produce multi-wavelength light having a plurality of central wavelengths, and also does not include any multiplexing of multiple wavelengths. Invention II has separate utility such as in a multiple wavelength generating application that does not flatten the optical spectrum and that does not multiplex the multiple generated wavelengths. Invention III has

separate utility such as in a multiplexing arrangement for multiplexing light of different wavelengths which does not require or produce multi-wavelength light having a plurality of central wavelengths, and which does not flatten the optical spectrum. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement may be traversed (37 CFR § 1.143).

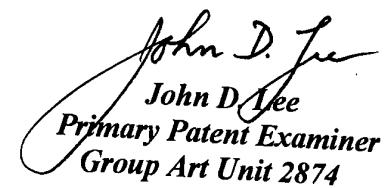
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR § 1.48(b) and by the fee required under 37 CFR § 1.17(i).

Any inquiry concerning the merits of this communication should be directed to Examiner John D. Lee at telephone number (703) 308-4886. The Examiner's normal work schedule is Tuesday through Friday, 6:30 AM to 5:00 PM. Any inquiry of a general or clerical nature (i.e. a request for a missing form or paper, etc.) should be directed to the Technology Center 2800 receptionist at telephone number (703) 308-0956, to the technical support staff supervisor (Team 2) at telephone number (703) 308-3072, or to

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the Technology Center 2800 Customer Service Office at telephone number (703) 306-3329.

  
John D. Lee  
Primary Patent Examiner  
Group Art Unit 2874